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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/726,010	11/29/2000	David Howard Fischer	AUS920000739US1	9658
35525	7590	06/09/2004	EXAMINER	
DUKE W. YEE CARSTENS, YEE & CAHOON, L.L.P. P.O. BOX 802334 DALLAS, TX 75380			HAMILTON, LALITA M	
			ART UNIT	PAPER NUMBER
			3624	

DATE MAILED: 06/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/726,010	FISCHER ET AL.	
Examiner	Art Unit	3624	<i>My</i>
Lalita M Hamilton			

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1)  Responsive to communication(s) filed on amendment filed on February 19, 2004.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4)  Claim(s) 1-5,7-14,16-23 and 25-27 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-5,7-14,16-23 and 25-27 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date .

- 4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .

5)  Notice of Informal Patent Application (PTO-152)

6)  Other: \_\_\_\_ .

## **DETAILED ACTION**

### **Summary**

On November 19, 2003, an Office Action was sent to the Applicant rejecting claims 1-27. On February 19, 2004, the Applicant responded by amending claims 1, 10, and 19 and canceling claims 6, 15, and 24. The Applicant requested a second interview to be held upon receipt and review of the amendment by the Examiner. On May 6, 2004, the Examiner contacted Kevin Goodsell to schedule the interview at which time the Examiner was informed that Kevin Goodsell was no longer with the firm. Therefore, the Examiner is responding to the amendment without holding the requested interview.

### ***Claim Rejections - 35 USC § 112***

The rejection set forth in the previous Office Action, paper no. 3, has been withdrawn.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-5, 7-14, 16-23, and 25-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Bundy (US 2002/0013761).

With regard to claims 1-5 and 7-9, Bundy discloses a method of notifying a subscriber of a status of an electronic auction, wherein the electronic auction contains a plurality of items, comprising the steps of receiving a notification preference from a, subscriber using a client device for each one of plurality of auction items bid on by a subscriber, the notification preference for each one of the plurality of auction items bid on by the subscriber identifying when to notify the client of a status of a bid for a respective one of the plurality of auction items bid on by the subscriber in the electronic auction, wherein the notification preference for each one of the plurality of auction items bid on by the subscriber is independent of the other notification preferences for other auction items bid on by the subscriber (p.4, 36; p.6, 69; and fig.7-all); matching the notification preference for an auction item bid on by the subscriber to a current status of a bid on an auction item bid on by the subscriber (p.4, 36; p.6, 69; and fig.7-all); transmitting a notification to the subscriber using a client device based on the matching of the notification preference for the auction item bid on by the subscriber to the current status of the electronic bid (p.4, 36; p.6, 69; and fig.7-all); displaying a selectable presentation of at least one notification criteria, the notification criteria identifying a plurality of auction sequences and a method in which to deliver the notification (p.4, 36; p.6, 69; and fig.7-all); displaying a selectable presentation of at least one notification transmission method (p.4, 36; p.6, 69; and fig.7-all); the notification transmission method is at least one of electronic mail, a telephone, a facsimile and a pager (p.4, 36; p.6, 69; and fig.7-all); wherein the notification preference is at least one of a minimum bid notification, a no bid notification, a bidding close notification, an outbid notification

and a winning bid notification (p.4, 36; p.6, 69; and fig.7-all); wherein the notification preference comprises default notification parameters (p.6, 68—phone call); wherein the subscriber is an interested party (p.4, 36; p.6, 69; and fig.7-all); and the subscriber is at least on of a buyer and a seller in the auction (p.4, 36; p.6, 69; and fig.7-all).

With regard to claims 10-14 and 16-18, Bundy discloses a system having a means of notifying a subscriber of a status of an electronic auction, wherein the electronic auction contains a plurality of items, comprising the steps of receiving a notification preference from a, subscriber using a client device for each one of plurality of auction items bid on by a subscriber, the notification preference for each one of the plurality of auction items bid on by the subscriber identifying when to notify the client of a status of a bid for a respective one of the plurality of auction items bid on by the subscriber in the electronic auction, wherein the notification preference for each one of the plurality of auction items bid on by the subscriber is independent of the other notification preferences for other auction items bid on by the subscriber (p.4, 36; p.6, 69; and fig.7-all); matching the notification preference for an auction item bid on by the subscriber to a current status of a bid on an auction item bid on by the subscriber (p.4, 36; p.6, 69; and fig.7-all); transmitting a notification to the subscriber using a client device based on the matching of the notification preference for the auction item bid on by the subscriber to the current status of the electronic bid (p.4, 36; p.6, 69; and fig.7-all); displaying a selectable presentation of at least one notification criteria, the notification criteria identifying a plurality of auction sequences and a method in which to deliver the notification (p.4, 36; p.6, 69; and fig.7-all); displaying a selectable

presentation of at least one notification transmission method (p.4, 36; p.6, 69; and fig.7-all); the notification transmission method is at least one of electronic mail, a telephone, a facsimile and a pager (p.4, 36; p.6, 69; and fig.7-all); wherein the notification preference is at least one of a minimum bid notification, a no bid notification, a bidding close notification, an outbid notification and a winning bid notification (p.4, 36; p.6, 69; and fig.7-all); wherein the notification preference comprises default notification parameters (p.6, 68—phone call); wherein the subscriber is an interested party (p.4, 36; p.6, 69; and fig.7-all); and the subscriber is at least one of a buyer and a seller in the auction (p.4, 36; p.6, 69; and fig.7-all).

With regard to claims 19-23 and 25-27, Bundy discloses a computer readable program code for notifying a subscriber of a status of an electronic auction, wherein the electronic auction contains a plurality of items, comprising the steps of receiving a notification preference from a subscriber using a client device for each one of plurality of auction items bid on by a subscriber, the notification preference for each one of the plurality of auction items bid on by the subscriber identifying when to notify the client of a status of a bid for a respective one of the plurality of auction items bid on by the subscriber in the electronic auction, wherein the notification preference for each one of the plurality of auction items bid on by the subscriber is independent of the other notification preferences for other auction items bid on by the subscriber (p.4, 36; p.6, 69; and fig.7-all); matching the notification preference for an auction item bid on by the subscriber to a current status of a bid on an auction item bid on by the subscriber (p.4, 36; p.6, 69; and fig.7-all); transmitting a notification to the subscriber using a client

device based on the matching of the notification preference for the auction item bid on by the subscriber to the current status of the electronic bid (p.4, 36; p.6, 69; and fig.7-all); displaying a selectable presentation of at least one notification criteria, the notification criteria identifying a plurality of auction sequences and a method in which to deliver the notification (p.4, 36; p.6, 69; and fig.7-all); displaying a selectable presentation of at least one notification transmission method (p.4, 36; p.6, 69; and fig.7-all); the notification transmission method is at least one of electronic mail, a telephone, a facsimile and a pager (p.4, 36; p.6, 69; and fig.7-all); wherein the notification preference is at least one of a minimum bid notification, a no bid notification, a bidding close notification, an outbid notification and a winning bid notification (p.4, 36; p.6, 69; and fig.7-all); wherein the notification preference comprises default notification parameters (p.6, 68—phone call); wherein the subscriber is an interested party (p.4, 36; p.6, 69; and fig.7-all); and the subscriber is at least one of a buyer and a seller in the auction (p.4, 36; p.6, 69; and fig.7-all).

***Response to Arguments***

Applicant's arguments with respect to claims 1-5, 7-14, 16-23, and 25-27 have been considered but are moot in view of the new ground(s) of rejection.

***Provisional Application Listed on PTO-892 form***

... If a copy of a provisional application listed on the bottom portion of the accompanying Notice of References Cited (PTO-892) form is not included with this Office action and the PTO-892 has been annotated to indicate that the copy was not readily available, it is because the copy could not be readily obtained when the Office

action was mailed. Should applicant desire a copy of such a provisional application, applicant should promptly request the copy from the Office of Public Records (OPR) in accordance with 37 CFR 1.14(a)(1)(iv), paying the required fee under 37 CFR 1.19(b)(1). If a copy is ordered from OPR, the shortened statutory period for reply to this Office action will not be reset under MPEP § 710.06 unless applicant can demonstrate a substantial delay by the Office in fulfilling the order for the copy of the provisional application. Where the applicant has been notified on the PTO-892 that a copy of the provisional application is not readily available, the provision of MPEP § 707.05(a) that a copy of the cited reference will be automatically furnished without charge does not apply.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lalita M Hamilton whose telephone number is (703) 306-5715. The examiner can normally be reached on Tuesday-Thursday (8:30-4:30).

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3624

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Lalita M. Hamilton